THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.6394 OF 2006

-

DATED: 03-04-2006

-

BETWEEN

Kommana Satya Sunitha,

D/o. Subba Rao,

Occ: Business,

Proprietor Sri Satya Xerox,

Shop No.1, A.P. Government

Driver's Association Complex,

T.S.No.62/1, Raja Ram Mohan

Roy Road, Kakinada,

East Godavari District and

others.

...PETITIONERS

AND

The Commissioner,

Municipal Corporation,

Kakinada,
East Godavari District

and another.

...RESPONDENTS

ORDER:

This writ petition is filed to declare the action of the respondents in widening the roads by

demolishing the petitioners' structures situated in Andhra Pradesh Government Drivers' Association Complex, T.S.No.62/1 at Raja Ram Mohan Roy Road, Kakinada, East Godavari District without issuing any notice and without paying any compensation as illegal and arbitrary.

Learned counsel for the petitioners submits that the petitioners are tenants of the schedule shops bearing Shop Nos.1, 2, 3, 4, 5, 6 and 7 in the aforesaid premises and they are carrying out business in the said premises and eking out their livelihood. The erstwhile Kakinada Municipality was recently upgraded as a Corporation.
The respondents with a view to ease the traffic congestion and thereby ensure free flow of traffic have taken up the job of road widening on all the main roads of Kakinada.

Learned counsel for the petitioners further submits that the subordinates of the respondents visited the premises of the petitioners on 08.01.2006 and gave markings to the said shops. The respondents are trying to widen the existing road from 60 to 100 feet and given markings only 4 to 6 feet to Southern side of the Raja Ram Mohan Roy Road and 20 feet and above to the Northern side by violating the master plan.

The main grievance of the petitioners is that the respondents have not issued any notice before deciding to demolish the said building and they are trying to demolish the building for the purpose of widening the road without acquiring the property as contemplated under Chapter V of Hyderabad Municipal Corporation Act or under Land Acquisition Act, without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Municipal Corporation Act (for short 'the Act').

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law.

Having regard to the facts and circumstances of the case,

the respondents are directed not to demolish the structures of the petitioners and not to dispossess them without following due process of law either under Section 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894.

The writ petition is accordingly disposed of.

_____

V. ESWARAIAH, J

April 3, 2006

DSK